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In re Application of :
Alexander VAN DER LELY *et al.* :
Application No. 10/073,015 :
Filed: February 12, 2002 :
Attorney Docket No. 8553/250 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 9, 2003, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned, by operation of law, on December 10, 2003. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, a Request for Continued Examination (RCE) under 37 CFR 1.114, and the \$395 filing fee; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay. Accordingly, the RCE is accepted as having been unintentionally delayed.

Furthermore, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

Application No. 10/073,015

The application file is being referred to Technology Center AU 3644 for appropriate action on the RCE and concurrently filed amendment.



David Bucci
Petitions Examiner
Office of Petitions